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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Note verbale dated 25 February 1992 from the Permanent Mission of the Gambia to the United Nations addressed to the Commission on Human Rights

The Permanent Mission of The Gambia to the United Nations presents its compliments to the United Nations Commission on Human Rights and has the honour to submit herewith a paper entitled "The Rights and Humanity Declaration on Fundamental Principles of Human Rights, Ethics and Humanity Applicable in the Context of the Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) and Charter of Responsibilities to Respect Human Rights and the Principles of Ethics and Humanity in Addressing the Public Health, Social and Economic Dimensions of HIV and AIDS (The Rights and Humanity Declaration and Charter on HIV and AIDS)". Given the importance attached to the issues discussed in this paper, the Permanent Mission of The Gambia to the United Nations kindly requests its circulation as an official document, under agenda item 11, of the forty-eighth session of the Commission on Human Rights.

GE. 92-11515

THE RIGHTS AND HUMANITY DECLARATION ON FUNDAMENTAL PRINCIPLES OF HUMAN RIGHTS, ETHICS AND HUMANITY APPLICABLE IN THE CONTEXT OF THE HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

and

CHARTER OF RESPONSIBILITIES TO RESPECT HUMAN RIGHTS AND THE PRINCIPLES OF ETHICS AND HUMANITY IN ADDRESSING THE PUBLIC HEALTH, SOCIAL AND ECONOMIC DIMENSIONS OF HIV AND AIDS

(The Rights and Humanity Declaration and Charter on HIV and AIDS)

Rights and Humanity
The International Movement for the Promotion and Realisation of Human Rights and Responsibilities

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THE RIGHTS AND HUMANITY DECLARATION ON FUNDAMENTAL PRINCIPLES OF HUMAN RIGHTS, ETHICS AND HUMANITY APPLICABLE IN THE CONTEXT OF THE HUMAN IMMUNODEFICIENCY VIRUS (HIV) AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

(THE RIGHTS AND HUMANITY DECLARATION ON HIV AND AIDS)

Rights and Humanity, the International Movement for the Promotion and Realisation of Human Rights and Responsibilities,

Recalling the Universal Declaration of Human Rights and subsequent legal instruments and universally recognised principles of ethics and humanity,

Reaffirming Article 1 of the Universal Declaration of Human Rights which proclaims that all human beings are born free and equal in worth, dignity and rights, are endowed with reason and conscience, and should act towards one another in a spirit of solidarity,

Reaffirming also that the full and complete development of society requires that the equal rights of women should be respected with regard to their legal, economic and social status and access to the resources of society, and that children, due to the needs of their physical and mental development, require legal protection in conditions of freedom, dignity and security and particular care and assistance,

Convinced that all human beings possess the capacity for love, understanding and compassion, and share the need both to belong and to contribute to a community,

Further reaffirming that all individuals and organs of society have the responsibility to respect the rights and dignity of everyone, and to observe the principles of ethics and humanity in the conduct of their lives,

Recalling the Charter of the United Nations by which all Member States undertake to take joint and separate action to resolve international economic, social, health and related problems, and to ensure universal respect for, and observance of, human rights and fundamental freedoms for all,

Recognising *that the human immunodeficiency virus (HIV) has now spread worldwide, crossing divisions of race, class, age, gender and sexual orientation, causing the pandemic of acquired immune deficiency syndrome (AIDS),*

Acknowledging *that global action is under way to address HIV and AIDS, but convinced that further urgent action based on respect for human rights and the principles of ethics and humanity is required at the individual, community, national and international levels to combat the further spread of HIV, care for the sick, and address the social and economic dimensions of HIV and AIDS,*

PROCLAIM *the following Declaration as a standard for policy-making and action at all levels in response to HIV and AIDS,*

I FUNDAMENTAL PRINCIPLES OF HUMAN RIGHTS, ETHICS AND HUMANITY

Article 1. Respect by all inter-governmental bodies, international agencies, states, public and private authorities, institutions, corporations, organisations, professional associations and other groups, and individuals for the human rights of everyone, as well as the principles of ethics and humanity is essential in addressing HIV and AIDS effectively.

a) International Human Rights Norms

Article 2. Everyone is entitled, without discrimination, to the enjoyment of his or her rights recognised by international law. In the context of public health the following human rights norms are of particular significance: respect for the rights of everyone to life, liberty and security of person; freedom from inhuman or degrading treatment or punishment; equality before the law without discrimination; freedom from arbitrary interference with privacy or family life; freedom of movement; the right to seek and to enjoy in other countries asylum from persecution; the right to contract a marriage and found a family; the rights to work and to a standard of living adequate for health and well-being including housing, food, and clothing; the right to the highest attainable standard of physical and mental health; the right to security in the event of lack of livelihood caused by unemployment, sickness, disability, widowhood or old age; the right to education; the right to participate in the cultural life of the community and to share in scientific advancement and its benefits.

Article 3. Respect for the right to life and for the right to the highest attainable standard of physical and mental health imposes an obligation on all states to protect public health, including the provision of appropriate information, education and support in order to enable individuals to develop and maintain healthy lifestyles and protect themselves and others from infection.

Article 4. Respect for the right to life also entails respect for people's right to live in dignity, irrespective of their health status. This requires

recognition that people with ill health or disability are entitled to participate to the maximum of their potential in society, which in turn necessitates provision of a supportive environment to enable people with ill health to "live positively" and develop their full potential and creativity.

Article 5. Respect for the right to physical integrity and freedom from inhuman or degrading treatment requires that no one should be subjected to any medical test, treatment or research without his or her informed and free consent.

Article 6. By international law the principle of non-discrimination prohibits discrimination in the enjoyment of economic, social, cultural, civil and political rights on any ground, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The term "or other status" should be interpreted to include personal circumstances, occupation, life style, sexual orientation, and health status. The principle of non-discrimination also requires the equal access of all people to education, health care, housing and other resources of society.

Article 7. As the United Nations Human Rights Committee has confirmed, equality before the law prohibits discrimination in law or in practice in any fields regulated and protected by public authorities. Thus, the principle of non-discrimination applies to all state policies and practices, including those concerning travel regulations, entry requirements and immigration.

Article 8. All people living with illness or disability, including people with HIV and AIDS, are entitled to enjoyment of their fundamental human rights and freedoms without any unjustified restriction.

Article 9. Respect for the human rights norm that no one shall be subjected to arbitrary or unlawful interference with his or her privacy requires that no personal or medical information acquired by public or private authorities or their staff should be disclosed without strict justification based on law and professional ethics.

Article 10. The duty of states to protect the right to privacy and to ensure protection of the law against arbitrary interference with the enjoyment of this right includes the obligation to ensure that adequate safeguards are in place to protect confidentiality at all levels of health and social welfare.

Article 11. Implementation of the obligations undertaken by Member States of the United Nations to take joint and separate action to resolve international economic, social, health and related problems and to ensure universal respect for and observance of human rights requires richer states to assist less-economically developed states in their efforts to promote public health, and to address the health, social and economic dimensions of HIV and AIDS.

b) Ethical Principles

Article 12. The world community has come to recognise a set of ethical principles which enable just and equitable decision-making. In the context of HIV and AIDS the most significant ethical principles are those which govern public policy making and professional conduct, particularly in the area of medical care and social work.

Article 13. Respect for the principle of well-being, or beneficence, requires policy makers to weigh the benefits of a proposed policy against the harms likely to be caused, and to adopt only policies the benefits of which outweigh any likely harms.

Article 14. Respect for the principle of equity and distributive justice requires policy makers to ensure just distribution of the benefits and burdens of their policies within the population concerned and to observe the principle of non-discrimination in the determination of who should benefit or suffer as a result of a given policy. It further requires that policies should ensure that all persons within a society enjoy equal access to the available goods and services which are necessary to fulfil basic human needs.

Article 15. Respect for human dignity and individual autonomy requires that each individual should be free to make decisions pertaining to his or her own life in so far as such decisions do not conflict with the rights of others, and that each individual should be protected from unjustified interference by others.

Article 16. With regard to health, respect for human dignity and individual autonomy requires policy makers to ensure that all individuals and communities have access to the necessary information and support to enable them to make appropriate decisions concerning their own health, well-being and medical care.

Article 17. Professional ethics require all professionals, including those in the fields of health care, social welfare, law, and insurance, to maintain strict confidentiality concerning all personal information obtained from clients in the context of their professional work.

Article 18. Professional ethics impose upon health professionals a duty to respect the dignity and autonomy of their patients, and to obtain the informed consent of their patients prior to the administration of any medical tests, drugs or other treatments, or to their involvement in research projects.

Article 19. Medical ethics also require that health professionals must treat, to the best of their ability, all persons seeking their medical attention without discrimination and without prejudice based on the origin or nature of the patient's illness or disability.

Article 20. Internationally recognised professional standards impose on social workers an ethical duty to maintain a relationship of mutual trust,

privacy and confidentiality with respect to their clients, and to respect their clients' individual goals, responsibilities and differences. This duty, premised as it is on respect for human dignity, requires social workers to ensure, to the best of their ability, that their clients are free to make their own informed decisions without undue pressure or unjustified interference or restriction.

c) Principles of Humanity

Article 21. The attainment of a just and humane society requires that all individuals and organisations both respect human rights and dignity, and observe those principles of humanity which reflect universal human values shared by religions and cultures throughout the world.

Article 22. The obligation of all individuals, organisations, private and public authorities to respect the rights and dignity of all people includes the responsibility to avoid harm to others.

Article 23. Respect for the equal worth, dignity and autonomy of all human beings requires tolerance of their different beliefs, opinions, life styles and other distinguishing characteristics.

Article 24. The duty of compassion, which is a fundamental tenet of each of the world's main religions, should guide the response of individuals, communities and societies as a whole to the misfortune and suffering of others.

Article 25. Each human being is unique and should have the opportunity to develop his or her own potential and creativity and to make a unique contribution to society. All human beings, whether in good health or not, require a nurturing and supportive environment. The vulnerable need protection, and the disadvantaged may require assistance and support. All individuals share with governments a common responsibility to meet these needs.

Article 26. The duty of human solidarity requires everyone to cooperate in efforts to prevent and alleviate human suffering, and strive against injustice.

Article 27. At the international level, solidarity requires coordinated efforts to seek justice for all and universal respect for human rights. It also requires equitable burden sharing between states, and support by the richer members of the international community to poorer countries and communities in their efforts to respect the rights and meet the needs of their people.

II RELATIONSHIP BETWEEN PROTECTION OF PUBLIC HEALTH AND WELL-BEING AND RESPECT FOR INDIVIDUAL RIGHTS AND FREEDOMS

Article 28. Protection of the public health and well-being is an obligation of states, but in determining their laws, policies and practices, states and policy-makers must respect individual rights and freedoms. In particular, it is never justified to discriminate arbitrarily against any individuals or groups of society so as to deny them the enjoyment of their fundamental rights.

Article 29. Respect for human rights and the protection of public health and well-being are interrelated and mutually dependent. This needs to be recognised both in the development of health and other public policies and in their implementation.

Article 30. International human rights instruments confirm that in the exercise of their rights and freedoms, individuals shall be subject only to such limitations as are determined by law solely for such purposes as securing respect for the rights and freedoms of others or protecting the public health.

Article 31. International human rights principles require that laws and measures introduced to protect the public should not arbitrarily deprive individuals of enjoyment of their rights and freedoms. There is no justification for penalising an individual solely on the grounds of ill-health or infection. Thus, it follows that there is no justification to restrict the rights and freedoms of persons solely on the grounds that they are, or may be, infected with HIV.

Article 32. With respect to the protection of public health, international human rights jurisprudence and public health law and practice confirm that public health measures which restrict individual rights and liberties are justifiable only to the extent that they:

- are provided for by a specific law
- are strictly required for the protection of public health
- are strictly proportional to the benefit to be gained from the policy or restrictive measure
- represent the least intrusive and restrictive method of achieving the desired end, and
- are not arbitrarily directed against a particular individual, group, or section of society.

Article 33. There is no public health benefit to be gained from isolating a person believed to have HIV or AIDS solely on the grounds of HIV infection, since HIV cannot be transmitted through casual contact or the respiratory route. Moreover, discrimination against and stigmatisation of people with HIV and AIDS, or who are considered to be at risk of infection, pose threats to public health and well-being. Fear of discrimination and stigmatisation might cause those who know themselves to be infected and those concerned that they might be

infected to take steps to avoid contact with health and other public authorities. As a result, it might prove difficult to reach those most in need of information, education and counselling, thus hampering efforts to prevent the further spread of HIV.

Article 34. Coercive measures such as isolation on the grounds of suspected or actual HIV infection thus not only violate the rights of the individuals directly concerned, but also contravene the obligation of states to protect public health.

Article 35. The duty to protect public health requires states to introduce measures to protect people with HIV and AIDS from discrimination and social stigma. States should re-examine their public health laws and regulations and repeal or revise any laws or practices which are unjustifiably coercive or prejudicial to the development of a supportive environment for people with ill health.

CHARTER OF RESPONSIBILITIES TO RESPECT HUMAN RIGHTS AND THE PRINCIPLES OF ETHICS AND HUMANITY IN ADDRESSING THE PUBLIC HEALTH, SOCIAL AND ECONOMIC DIMENSIONS OF HIV AND AIDS

Respect for human rights and the observance of the principles of ethics and humanity impose obligations and responsibilities on states, organisations and individuals at all levels of national and international society. In the context of HIV and AIDS particular responsibilities are imposed on states, health authorities and health-care professionals with respect to the adoption and implementation of appropriate public health policies. In addition, addressing the social and economic dimensions of HIV and AIDS requires states, public and private authorities, corporations and organisations, as well as individuals and communities to respond appropriately in a spirit of compassion and solidarity. Furthermore, the international community as a whole must ensure effective global cooperation, and support and assistance to less economically developed countries is essential in order that all states and all people might meet the challenges raised by AIDS.

We the undersigned,

Call on all inter-governmental bodies, international agencies, states, public and private authorities, institutions, corporations, organisations, professional associations and other groups, and individuals, to respond to HIV and AIDS in accordance with their obligations and responsibilities, and in particular those set out below:

I. THE PUBLIC HEALTH RESPONSE TO HIV AND AIDS

1. The duty of states to protect the public health requires all states to develop and implement appropriate policies to address HIV and AIDS, and to make available, to the maximum extent possible, the financial and other resources required for their effective implementation.

2. Policies to address the public health aspects of HIV and AIDS need to be based both on sound scientific knowledge about the nature of HIV and AIDS, and on respect for human rights and dignity and the principles of ethics and humanity. Such policies should include strategies to prevent the further spread of HIV, to provide appropriate care and support for people with HIV and AIDS, and to ensure respect for human rights and ethical principles in surveillance, detection and reporting of HIV and AIDS, and in research programmes and projects.

3. The obligation of states to take joint and separate action to resolve international health and related problems and to ensure respect for human rights requires international cooperation in response to the public health and human rights challenges raised by HIV and AIDS. The principles of international solidarity and burden sharing impose obligations on the world's richer states to assist less economically developed countries to meet their duty to ensure respect for human rights, to protect the public health, and to care for and support people with HIV and AIDS. This may require the provision of both financial assistance and technical and other support.

A. Prevention

4. In the absence of a cure for AIDS, preventing the spread of HIV forms a vital part of the obligation of states to protect public health and the right to life. This obligation requires states, for example, to ensure an uninfected blood supply, provide training and equipment to enable appropriate precautions for the avoidance of infection in health care settings, to disseminate public information and education on HIV and AIDS, and to provide sufficient and appropriate support to all sectors of society for behaviour change away from unsafe practices.

5. Prevention programmes should be based on respect for human rights and dignity, and the recognition that individuals are capable of acting responsibly concerning their own health and that of others. Such programmes should be aimed at encouraging individuals to adopt voluntarily the behaviour changes required to protect health. Strategies and programmes which are based upon coercion offend human dignity and contravene the principle of respect for individual autonomy. Moreover, experience indicates that such coercive policies are counterproductive from the point of view of ensuring the public health.

6. The obligation to avoid harm to others requires that individuals knowing themselves to be infected with HIV should ensure, to the best of their ability, that they do not place others at risk of infection. Responsibility for prevention of HIV transmission must, however, be shared equally by people who consider themselves to be uninfected or do not know their serostatus, by avoiding to the best of their ability all risk behaviours.

7. Respect for the right to privacy, and strict observance of the ethical principle requiring professionals to maintain the confidentiality of medical and personal information, are essential to the success of prevention strategies. In many instances, fear that confidentiality may be broken and that if so this might lead to stigmatisation and discrimination, prevents people from coming forward for HIV testing and for information on how to avoid HIV transmission.

8. Respect for human dignity and individual autonomy requires states and health authorities to ensure that groups targeted in prevention efforts are given maximum opportunities for involvement in the design, implementation and evaluation of prevention programmes. Experience indicates that peer education and other programmes which are participatory and respect human dignity are among the most successful in public health terms.

9. In the design and implementation of HIV prevention policies, states need to take account of religious and cultural values and sensitivities, but dogma or doctrine should never be permitted to stand in the way of protecting the public health.

- Information and Education on HIV Prevention

10. Respect for the rights to life and to the highest attainable standard of health, and for the principle of non-discrimination requires states to ensure that all sectors of society receive appropriate information and education on HIV and AIDS, and that particular attention is paid to reaching people in remote locations and members of disadvantaged groups.

11. Those responsible for the design and implementation of school curricula should ensure that health education, including education on HIV prevention and on non-discrimination in the context of HIV and AIDS, is included in class room teaching. In order to ensure understanding of the health and social dimensions of HIV and AIDS, open and honest discussion of these issues should be encouraged, within the context of cultural and religious values.

12. Respect for the equal worth and dignity of all people and the avoidance of discrimination requires policy makers and others involved in HIV and AIDS education to ensure that educational messages are not based on, and do not perpetuate, prejudices against, or stereotyping of particular groups of individuals. Thus, language and images which portray particular groups or persons in a prejudicial manner must be avoided.

- Support for Behaviour Change

13. Respect for the rights to life and to the highest attainable standard of physical and mental health requires states to complement HIV education and information programmes with the provision of practical support, which might assist people to implement the knowledge gained through such programmes.

14. In view of the prophylactic properties of condoms in the context of HIV transmission, policy-makers and health authorities should consider the potential utility of promoting condom availability and use as one of the measures which can be adopted to protect the public health.

15. The obligation to protect public health requires states to ensure that its policies, laws and practices do not directly or indirectly act as an obstacle to effective HIV prevention. Consideration should be given, for example,

to the repeal of restrictive laws and regulations which inhibit the distribution or use of condoms, such as those which prevent distribution of condoms in prisons.

16. Further, states should give consideration to the establishment and support of schemes aimed at preventing HIV transmission through self-injecting drug use. Such schemes could include programmes to reduce drug use through increased provision of detoxification and rehabilitation centres, the establishment of needle exchange programmes, and the targeted distribution of bleach for needle and syringe sterilisation.

17. Prostitution, or sex work, carries a risk of HIV infection, both for the sex workers and their clients. Protection of the public health requires that states address this risk of infection, for example by promoting safer sexual practices. In this regard, experience to date indicates that non-coercive measures which respect the human rights and dignity of the sex worker and client are more effective than coercive measures, as the latter tend to push sex work underground, thus restricting the opportunity to educate those involved.

18. Human dignity and the principle of autonomy are best respected by involving sex workers and, where identifiable, their clients in the design and implementation of education strategies or other HIV prevention programmes. Measures which could be considered in this context might include educational campaigns, increased accessibility of condoms, and the relaxing or repeal of any restrictive laws or coercive policies which prevent prostitutes from negotiating safer sex practices with their clients or managers.

19. The right to life and the highest attainable standard of health requires that no person is forced, whether through economic necessity or other cause, to engage in work which seriously places his or her life or health at risk. Since sex workers are particularly vulnerable to HIV and other infection through their work, states should take all possible measures to provide them with social support, including alternative employment options.

20. Individual autonomy and the right to participate in cultural life require respect for differing cultural practices. However, in those circumstances in which traditional practices carry the risk of transmission of HIV infection, respect for cultural traditions and freedom of choice should not be permitted to obscure the need to protect the life and health of individuals involved in such practices. Policy makers should encourage relevant community leaders and practitioners to participate in the development of policies and the implementation of practices aimed at reducing the risk of infection.

- Ensuring the Safety of Donated Blood, Blood Products and Human Tissue

21. Ensuring the safety of the blood supply and human tissue donated for transplant forms an essential element of states' obligation to protect public health and the right to life. In order to meet this obligation states are required to screen for HIV all donated blood and blood products, and to prevent the use of such contaminated units for transfusions. Similarly, all donated human tissue should be screened for HIV.

22. In view of the importance of establishing and maintaining an uninfected supply of blood and blood products, respect for the principle of international solidarity requires coordinated efforts by the international community aimed at assisting those countries which have not already done so to establish procedures for ensuring a safe blood supply.

23. Respect for the ethical principle of beneficence, or well-being, requires that, where a lack of resources prohibits the screening of blood supplies, blood products or human tissue, unscreened units should only be used when the potential benefit outweighs the risks involved. It would be difficult to justify the risk to the patient of using unscreened blood or tissue unless it were believed that the patient would die or suffer serious harm without the transfusion or transplant.

24. Respect for individuals' right to freedom from arbitrary interference with their privacy requires that all information on HIV serostatus obtained during the testing of donated blood or tissue is kept strictly confidential. Respect for confidentiality is also necessary in order to ensure an adequate blood supply, since experience has shown that when donors fear that their serostatus might be disclosed they may avoid donating blood.

25. Respect for human dignity and the medical ethic of truth telling requires that, where their identity is known, HIV infected blood donors be informed of their serostatus. Respect for the principle of beneficence requires that this should be done in a way which minimises the potential harms of telling the person that he or she is infected.

This in turn requires that the person be provided with appropriate counselling regarding the implications of the HIV infection.

- Avoidance of Infection in Health Care Settings

26. Respect for the right to life and the right to the highest attainable standard of health imposes an obligation on states and health authorities to ensure the avoidance of transmission of HIV or other infections in health-care settings. Health authorities and public and private employers in the health-care field must ensure that all health-care workers are properly trained in precautions for the avoidance of transmission of infection and in sterile procedures.

27. States are obliged to ensure that health care workers, both in home-based and in institutional settings, have access to the necessary gloves and other materials to protect themselves and others from the risk of infection, and equipment to allow for sterile and safe health care practices.

28. Respect for professional ethics and the duty of care owed by health professionals to their patients requires health professionals to take all necessary precautions to prevent possible transmission of HIV and other infections to their patients in the health care setting. Where sterilisation equipment is not available, health workers should observe the ethical principle of beneficence, by weighing up the harms and benefits which might arise from treating a patient with equipment which has not been properly sterilised.

29. The obligation to avoid harm to others requires that people knowing themselves to be infected with HIV or with AIDS should, when seeking health-care, ensure to the best of their ability that health-care workers or other patients are not subjected to risk of infection.

- Inappropriate Prevention Strategies

30. An analysis of the provisions of international human rights law, the principles of ethics and humanity, and the requirements of public health indicates that most of the restrictive or coercive policies introduced as AIDS control measures both violate internationally recognised human rights norms and are ineffective as a means of controlling the spread of HIV infection.

31. International human rights law confirms that in the exercise of their rights and freedoms, individuals shall be subject only to such limitations as are determined by law solely for such purposes as securing respect for the rights and freedoms of others or protecting public health.

32. In the context of respecting the rights and freedoms of others it has sometimes been suggested that the liberty of people with HIV infection and AIDS should be restricted. However, there is no justification for penalising an individual solely on the grounds of ill-health or infection. Thus any such restrictions imposed solely on the grounds of actual or suspected HIV infection or other health status would be unjustified. In particular, it could never be justifiable to impose imprisonment solely on the grounds of HIV infection or AIDS.

33. In those circumstances in which as a result of criminal intent or mental instability a person infected with HIV places another at risk, existing criminal laws or mental health laws or regulations might be applicable. However, in considering the application of these laws or regulations, public authorities should bear in mind that coercive measures such as isolation or imprisonment have been shown to be counter-productive to the protection of public health, as they might lead people to attempt to avoid contact with health and other public authorities.

34. Further, application of Article 15 of the International Covenant on Civil and Political Rights requires that no one is held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time it was committed.

35. The right of all persons deprived of their liberty to be treated with humanity, as confirmed by Article 10 of the International Covenant of Civil and Political Rights, requires that prisoners and others deprived of their liberty should not be subjected to discriminatory practices relating to HIV and AIDS. In particular, they should not be subjected to involuntary testing, segregation or isolation unless this is strictly required in order to ensure their own well-being or that of others.

36. In the context of the protection of public health, there is no justification for the isolation or quarantine of people solely on the grounds of suspected or actual HIV infection. Thus, any such policies would represent an unwarranted restriction of individual liberty and thus violate human rights.

B. Surveillance, Detection and Reporting

37. In compliance with the ethical principle of beneficence, states and policy-makers at all levels should evaluate the potential benefits of policies in the light of any actual or potential negative implications. Surveillance of the prevalence of HIV infection and AIDS and the reporting of AIDS cases can generate epidemiological data which may assist in the development of effective policies for addressing HIV and AIDS. Testing individuals for HIV antibodies may be of benefit to the health of the individual concerned and to the public health where, for example, it enables health educators to encourage the necessary behaviour change towards risk reduction. However, disclosure of the identification of individuals as being HIV infected may lead to stigma, discrimination and great personal suffering. Similarly, where results of sentinel surveillance are released the entire community concerned may suffer from stigma and discrimination. Thus states should weigh the potential benefits of surveillance, detection and reporting policies against the risk of a breach of confidentiality and the consequent potentially harmful effects on the individuals and communities concerned.

38. The duty of states to protect the right to privacy and to ensure protection of the law against arbitrary interference with the enjoyment of this right includes the obligation to ensure that adequate safeguards are in place to protect confidentiality at all levels of surveillance, detection and reporting.

39. Respect for professional medical ethics requires that health professionals maintain strict confidentiality with respect to all personal and medical information obtained in the course of HIV surveillance, detection and reporting. Respect for the right to privacy also requires that information concerning communities obtained, for example, through sentinel surveillance, is similarly kept strictly confidential.

- Testing and Screening Programmes

40. Respect for the right to the highest attainable standard of health requires that states provide access to voluntary and confidential testing for HIV. Such testing should be supported by pre- and post-test counselling, and the provision of information and education on how to prevent risk of HIV transmission.

41. Screening which is carried out for the purposes of generating epidemiological data should be based on unlinked anonymous testing in order to protect the confidentiality of individuals' test results.

42. Respect for the right to physical integrity and the principles of medical ethics requires that no person is subjected to the taking of blood without his or her prior informed consent. Experience indicates that mandatory screening policies, which are not based on informed consent, are likely to be detrimental to HIV prevention efforts since those people most at risk of infection are likely to avoid contact with health authorities in order to escape identification and compulsory testing. Thus, the obligation of states to protect the public health may require the avoidance of mandatory or coercive screening measures.

43. Where an individual has consented to the taking of a sample of his or her blood for purposes other than HIV testing, the potential benefit to be gained from the collection of epidemiological data might justify HIV-antibody testing of the stored blood. However, stored blood should not be tested without the express consent of the donor unless either his or her identity cannot be traced, or strict confidentiality can be guaranteed.

- Contact Tracing

44. Respect for the right to privacy requires that contact tracing, which involves *inter alia* the tracing of the sexual partners of a person infected with HIV, should be undertaken only when there is a strong public health justification.

45. The observance of the principle of beneficence requires that the potential benefit of contact tracing be weighed against the potential harms. In this context the potential benefits of identifying infected people include the opportunity to counsel them on how to prevent further transmission of HIV and on the adoption of a healthy lifestyle. Against this should be balanced the invasion of privacy as well as the economic and administrative costs involved in contact tracing programmes.

46. Respect for the right to privacy and medical ethics precludes any unjustified disclosure of the identity of the people concerned in any contact tracing programmes. In all cases contact tracing must be carried out with sensitivity and respect for human dignity.

- Partner Notification

47. Respect for the principle of medical confidentiality requires that personal or medical information acquired by a health professional should not be disclosed to a third party without the consent of the patient concerned unless this is strictly necessary for the protection of the health of a third party. Disclosure may be justified, for example, when an infected person refuses to take the precautions necessary to protect his or her sexual partner and consistently refuses to inform the partner of the risk of infection. In such cases a health professional may consider it necessary to disclose the HIV-status of the infected person to the partner in order to protect the latter's life and health.

48. Where the partner is also a patient of the health professional concerned, the duty of care owed by the health professional to that patient may provide additional grounds for disclosure of this information. Partner notification needs to be considered by health professionals on a case-by-case basis.

- National and International Reporting and Notification

49. Where a national law or practice provides for the reporting of AIDS cases, respect for the right to privacy requires states to ensure that the identity of individuals be protected in the reporting and compilation of data.

50. International reporting of AIDS cases is required for the development of appropriate global strategies to address HIV and AIDS. International solidarity and respect for the obligation to assist in the resolution of international health concerns require all states to report cases of AIDS in their country on an anonymous basis and in accordance with the procedures established by the World Health Organisation.

51. In order to facilitate the compliance by states with international reporting guidelines, states and the international community as a whole should take the necessary steps to counter the stigma attached to HIV and AIDS, so that governments may more freely report on the prevalence and incidence of AIDS in their country without fear of recrimination, discrimination or other negative consequences.

C. Health Care and Social Services for People with HIV or AIDS

- State's Obligation to Ensure Equality of Access to, and Provision of, Health-care and Social Welfare and Services

52. International human rights texts confirm the right of everyone to an adequate standard of living, including food, clothing and housing, and to the enjoyment of the highest attainable standard of physical and mental health. Thus states must ensure that all sectors of the population should have equal access to available health care and social services. This requires that people with HIV and AIDS are not subjected to discrimination in access to health care, social services and other resources of society essential for health and well-being.

53. By Article 12 (2) of the International Covenant on Economic, Social and Cultural Rights States Parties undertake to ensure the "creation of conditions which would ensure to all medical service and medical attention in the event of sickness". In the context of HIV and AIDS, this requires that all people in need of treatment, whether as a result of HIV or AIDS or some other cause, should have access to available medical treatment and other health-care facilities, regardless of their HIV status. Respect for individual autonomy requires that people with HIV and AIDS be free to decide what treatments they undertake, and to choose alternative therapies where these are available.

54. Since there is no public health rationale for the isolation of people with HIV or AIDS, there is no justification solely on the grounds of their HIV status for the isolation of AIDS patients during hospital care. When considering whether to care for AIDS patients in special wards or within general wards, policy makers need to weigh the possible benefits against the risk that special AIDS wards might heighten stigmatisation.

55. Respect for human dignity requires that those dying as a result of AIDS should be able to die in dignity. States and health authorities should give consideration to the potential utility of hospices in this regard.

56. In the context of health care for prisoners the responsible authorities should consider the possibility of permitting the early release of prisoners who are dying as a result of AIDS so that they might die in freedom and dignity.

57. By Article 9 of the International Covenant on Economic, Social and Cultural Rights states parties recognise the right of everyone to social security, including social insurance. Where such services are available in a country, the observance of non-discrimination provisions requires that those in need as a result of HIV infection or AIDS should receive services and support equal to those enjoyed by people suffering other forms of ill-health or disability.

58. The additional needs of people with AIDS should also be recognised and met to the maximum extent possible. This requires states to ensure to the maximum extent possible that all people with HIV and AIDS have access to the care and support they require. In this connection, attention needs to be given to meeting the special needs of women and children with HIV and AIDS, and of parents with HIV who may require assistance in caring for their children. It also requires that all people with HIV and AIDS have access to adequate housing and a diet appropriate to their needs.

59. The duty of states to protect the right to privacy and to ensure protection of the law against arbitrary interference with the enjoyment of this right includes the obligation to ensure that adequate safeguards are in place to protect confidentiality at all levels of health-care and social welfare services.

60. Public authorities and private employers in the field of health-care and social welfare should ensure that their staff are fully informed and educated concerning the obligation to respect human rights and the principles of medical ethics and confidentiality in the conduct of their work.

- Responsibilities of Professional Ethics to Respect Principles of Non-discrimination, Autonomy and Confidentiality

61. Professional health care and social welfare workers, like other professionals, are obliged by professional ethics to respect the dignity and individual autonomy of their patients or clients. They also share the responsibility of all individuals and organisations to respect the human rights of everyone without discrimination. These duties require that all individuals and institutions involved in the provision of health care and social welfare services respect the human rights of people with HIV and AIDS, and avoid any form of discrimination against such people in the provision of care or services.

62. Observance of the professional duty to maintain confidentiality requires respect for the privacy of personal and medical information acquired by health care, social work and other professionals in the course of their work. Professionals are accountable for their decisions to disclose confidential information. Exceptions to the rule of confidentiality are permissible only when the benefit to be gained from disclosure sufficiently outweighs the potential harm to the person concerned.

63. In the context of health care and social welfare work, disclosure of confidential information without the consent of the person concerned can only be justified when:

- disclosure is necessary for the benefit of the individual concerned (such as disclosure to a supportive family member, or to another person involved in the patient's care);
- disclosure is strictly necessary to protect the health of a third party; or
- disclosure is required by law.

64. Where the sharing of information with other professionals is required for professional purposes, it is the responsibility of the professional making such disclosure to ensure that his or her colleagues appreciate that the information is being imparted in strict professional confidence.

65. In those circumstances in which there is a significant risk of transmission of infection to a third party, and the person infected with HIV refuses to inform that third party of the risk of infection or to take precautions to prevent transmission of infection, the health-care worker might be justified in informing the third party of the

risk of infection so that the latter might decide how best to protect himself or herself from infection. The health-care worker should weigh the anticipated harm to the patient of disclosure (including the negative impact this might have on the trust between patient and health-care worker), against the risk of harm to the third party, in order to adopt that course of action likely to cause the least harm.

66. In those societies and cultures where traditions place greater emphasis on the rights and responsibilities of families or communities than on individual rights, patients may more readily authorise the sharing of confidential information with his or her family or community. In such circumstances, disclosure to the family or community may be for the benefit of the patient concerned, and such "shared confidentiality" may not breach the duty to maintain confidentiality.

- Additional Ethical Responsibilities of Health-care Professionals

67. The special relationship of trust between health-care workers and their patients imposes professional ethical obligations on health-care professionals in the conduct of their work. These obligations include the duty to treat, to ensure informed consent, to respect the principle of truth-telling, and to maintain confidentiality of personal and medical information relating to their patients. Professional medical bodies, where such bodies exist, should develop appropriate guidelines to assist health professionals in dealing with the ethical considerations they may need to address in the context of HIV and AIDS.

68. Observance of the professional duty to treat requires that health-care workers, to the best of their ability and without discrimination, treat all persons seeking their professional attention. It is thus unethical for a health-care professional to refuse treatment, or investigation for which there are appropriate facilities, on the grounds that the patient is infected with HIV or has AIDS. It is similarly unethical for a health professional to withhold treatment from a patient on the basis of a moral judgment that the patient's activities or lifestyle might have contributed to the condition for which treatment is being sought. Unethical behaviour of this kind may constitute serious professional misconduct.

69. For their part, health authorities and employers are under a duty to ensure that all health-care workers exposed to the risk of infection have access to protective gloves and other basic items necessary to enable health-care workers to protect themselves from the risk of infection in their work.

70. In those circumstances in which gloves are not available, the health-care worker should use other appropriate barriers to infection. The absence of gloves should not generally be regarded as sufficient justification to deny a patient the treatment he or she requires. Such denial would be be justified only in those circumstances in which the risk of infection significantly outweighed the benefit to the patient of the particular procedure due to be administered, for instance in the case of non-essential surgery sought by a patient known to be infected with HIV.

71. The professional duty to treat is matched by the obligation of people knowing themselves to be infected with HIV to ensure to the best of their ability that they do not place health-care workers and others at risk of infection.

72. The duty not to administer to a patient any treatment or test without his or her informed consent requires that health-care workers provide to a patient sufficient information about his or her condition, the test or treatment proposed, and any alternatives available, to enable the patient to make an informed choice. Thus people with HIV or AIDS should have access to the necessary information and resources to enable them to make informed choices about all drugs or other treatments available to them, and should be free to choose between the available alternatives.

73. Respect for autonomy requires that HIV infected women should be free to make their own informed decisions, from amongst the options legally available to them, about pregnancy and childbirth. This in turn requires that they have access to accurate and complete information about the risk of vertical transmission of HIV infection from mother to baby.

74. In those circumstances in which the patient is unconscious, or is unable to give informed consent as a consequence of age, mental illness or disability, consent to medical treatment or procedure might be assumed where it is strictly necessary for the purpose of protecting the health of the patient concerned.

75. Application of the principle of truth-telling requires that health professionals inform their patients of their HIV status, medical condition and prognosis. In those circumstances in which there is no counselling available for people with HIV or AIDS, the risk that a person learning of infection might be unable to cope emotionally with this knowledge and thus might cause themselves or others harm, needs to be carefully balanced against the fact that a person who is not aware that he or she is infected may not take the necessary precautions to avoid further spread of HIV.

D. Research

76. Biomedical, epidemiological, social and behavioural research can contribute to the development of effective responses to HIV and AIDS. Thus all states should consider the potential benefit of research in the context of their AIDS programmes.

77. The obligation to ensure public health and well-being, and respect for the human rights of all within their jurisdiction requires states to ensure that all research authorised in their jurisdiction, whether by national or international researchers, complies with recognised ethical standards for the conduct of such research and in other ways respects human rights and dignity. Foreign researchers should be required to respect the laws and ethical standards of the host country, and to apply ethical standards no less stringent than those which are applicable in their countries of origin.

78. States that have not already done so should adopt appropriate policies and procedures to ensure that all research carried out in their country, whether by international agencies, multi-national or national corporations, health authorities, research institutions or other bodies, or individual researchers, respects human rights norms and complies with ethical standards. This may require the establishment of a national committee on research ethics to review research protocols and ensure adherence to human rights norms and ethical standards in the conduct of the research and dissemination of its conclusions.

79. Respect for the ethical principle of equity and distributive justice requires those responsible for research projects and the authorisation or research to take steps to ensure that any research which is conducted in a given community is of demonstrable benefit to that community, and especially to those individuals taking part in the research. Adequate compensation should be made available to those suffering harm as a result of participation in research projects.

80. Respect for equal rights requires policy makers, and others involved in research, to observe the principle of non-discrimination in the determination of who should benefit or suffer as a result of decisions pertaining to research. This principle requires that the selection of countries, sites and individuals for participation in HIV or AIDS research projects be based solely on scientific criteria, and not on prejudice or the pursuit of economic advantage.

81. Respect for the equal rights of men and women, and observance of the ethical principle of distributive justice require that the specific medical, biological, social, and economic needs of women be taken into consideration and addressed in the initiation, design, and implementation of HIV and AIDS research, as well as in the dissemination of research findings and the distribution of the products of research.

82. In developing policies regarding the authorisation of research programmes and projects, states should therefore give attention to overcoming the current lack of information on the impact of HIV and AIDS on the health of women and children, and on drugs and therapies appropriate for these people.

83. In granting approval for the use of experimental therapies and drugs, particular consideration should be given to the urgency of enabling people with HIV and AIDS to gain access, with their informed consent, to therapies and drugs which may be of benefit to their health and well-being.

84. For their part, all individuals and institutions involved in the design and implementation of research projects, the dissemination of research findings, or in the distribution of drugs or other outcomes of research, have a duty to ensure that their work is conducted in accordance with respect for human rights and principles of ethics and humanity.

- Respect for the Rights of Human Research Subjects

85. Respect for the right to physical integrity, and for human dignity and individual autonomy, requires the informed consent of each individual prior to his or her inclusion in any research project. Thus those responsible for research projects must ensure that potential research subjects are informed of the purposes of the research project, and appreciate the potential risks and benefits involved in participating.

86. Those responsible for research also have the responsibility of satisfying themselves that consent to participate is freely given. In the context of research programmes involving groups such as military personnel, students or prisoners, particular consideration should be given to the need to ensure free consent to participation and to assure such people of their freedom to refuse to consent or to withdraw without prejudice.

87. Respect for the right to privacy requires that all personal and medical information relating to research subjects must be kept strictly confidential both during the course of, and subsequent to, the research project so that the identity of the research subjects remains confidential.

88. Professional ethics impose on the researchers concerned the responsibility of maintaining such confidentiality. Those responsible for research projects should take steps to ensure that confidentiality is maintained by all people involved in the conduct of research.

89. Potential research subjects must be informed in advance of any limitations on the ability to protect confidentiality, so that they might take this into account in deciding whether or not to participate in the research.

90. Respect for the equal worth and dignity of all individuals places a responsibility on researchers to safeguard the dignity of actual and potential human subjects in the conduct of research, regardless of the latter's beliefs or lifestyles, or their HIV status or other characteristics.

91. In addition, respect for human dignity requires particular sensitivity in carrying out social and behavioural research on HIV and AIDS, as this research is often concerned with private, and sometimes illicit, matters. Respect for individual autonomy and dignity requires that such studies adopt the least intrusive method of investigation.

- Equitable Distribution of the Benefits of Research

92. Respect for the right of everyone to the highest attainable standard of health and the principle of autonomy require that all people have access to the conclusions of research which has a bearing on their own circumstances, in order that they might make informed decisions regarding their own health and well-being.

93. Observance of the ethical principle of justice and respect for the right of everyone to enjoy the benefits of scientific progress, confirmed by Article 15 of the International Covenant on Economic, Social and Cultural Rights, require that the international community and international organisations, including the research-based pharmaceutical industry, ensure the equitable sharing of the fruits of research.

94. Respect for these rights and principles further obliges states to ensure that when research leads to the discovery of an effective HIV vaccine, or AIDS treatment or cure, this knowledge is accessible to all, and any products developed are distributed equitably.

95. In this regard, respect for the ethical principle of justice requires that the population among which the research on trial drugs or vaccines was undertaken should be entitled to first priority in receiving any products developed as a consequence, once these have been proven to be safe and efficacious.

96. The principle of international solidarity requires the international community to ensure that once an HIV vaccine or cure for AIDS is available, it is accessible to and affordable by people in less economically developed countries. States should therefore establish mechanisms in advance to ensure equitable global accessibility of future vaccines or cures.

97. Decisions regarding the approval for use of trial drugs and vaccines should be guided by the ethical principle of beneficence. This requires the weighing up of the potential harms and side effects of the drug or vaccine

against its potential benefits, both for the group to whom the trial drug is being administered, and for the wider population. In all cases, it is vital that all persons who participate in drug trials do so voluntarily on the basis of informed consent after being given full information regarding the actual and potential harms and benefits involved in their participation.

II. ADDRESSING THE SOCIAL AND ECONOMIC DIMENSIONS OF HIV AND AIDS

98. The obligation of states to ensure the welfare of its people requires that appropriate policies are developed and implemented to address the social and economic dimensions of HIV and AIDS, and the pre-existing inequalities, injustices and social prejudices, which exacerbate the impact of AIDS.

99. Since AIDS predominantly affects those in the most productive years of their life, the pandemic's economic implications extend beyond people with AIDS and their families and communities, and may, in high prevalence areas, have serious consequences for a particular industry and even national economies.

100. Additional research and analysis is necessary at all levels in order to understand the full social and economic impact of HIV and AIDS. In the meantime, state action is required to lesson the impact of HIV and AIDS on individuals, families and communities and to combat AIDS-related discrimination and stigma.

101. Many of the social problems highlighted by AIDS, such as prejudice against homosexuals and the economic pressures which push women, children and men into prostitution, are rooted in intolerance, injustice, or poverty. These inequities both violate the rights and dignity of the people directly affected, and threaten public health. Renewed efforts must be made to eradicate economic and social injustice, and to protect and implement the rights of all members of society.

102. Respect for equal rights of women and men requires that women are adequately involved at all levels in the development and implementation of AIDS policies, and that men and women share the social and economic burdens associated with AIDS. Women can and do play an important role in HIV prevention and in caring for people with HIV and AIDS, but caution should be exercised in policy making to ensure that women are not required to shoulder an unjust burden as a consequence of HIV and AIDS.

103. The duty of states to ensure the welfare of their people requires that all states commit the necessary funds and other resources to lessen the impact of AIDS on individuals, families and societies as a whole. Less economically developed countries may face particular problems in meeting the challenges raised by AIDS, but this comparative poverty should never be used as an excuse for not taking action to prevent the spread of HIV, care for the sick, and address the social implications of HIV and AIDS.

104. The obligation of states to take joint and separate action to resolve international economic, social, health and related problems and to ensure universal respect for, and observance of, human rights and fundamental freedoms for all requires that the burdens of addressing the health, social and economic dimensions of AIDS should be shared between countries. It further requires that states cooperate in identifying and removing obstacles such as structural and economic inequalities both within and between nations, which impede effective policies.

105. In addressing the social and economic dimensions of AIDS, as in all other aspects of AIDS policy and action, respect for human rights, and for the principles of ethics and humanity is essential, and should guide policy-making and action at all levels of international and national society.

- Addressing Existing Prejudice and Inequalities

106. Addressing the social dimensions of the AIDS pandemic requires states to address the underlying prejudices and inequalities within their societies which exacerbate the spread of HIV. Thus the state's obligation to protect the public health and well-being also requires measures to reduce social stigma and prejudice against individuals for example on the grounds of occupation, life style, health status, or sexual orientation. This may require, for instance, the repeal of laws penalising homosexuality.

107. Respect for the equal rights of women and men requires that urgent steps are taken by states to improve the legal, economic and social status of women. Their existing disadvantage in many societies both increases their vulnerability to the risk of infection, and denies them the opportunity to develop their full potential in addressing HIV and AIDS. In particular, protection of the right to life requires steps to reduce women's vulnerability to infection. Such steps should include a strengthening of the legal protection and the implementation of rights of women and girls to education, and of women's right to work, property ownership, and equality of rights within marriage and on its dissolution.

108. Enjoyment of the right to an adequate standard of living requires states to take urgent action to address the poverty which, in many societies, leads to prostitution and other forms of sex work, or which is also frequently associated with the use of drugs. Policies to address such practices as prostitution and self-injecting drug use should be based on respect for human dignity and should avoid judgemental attitudes. Policies and programmes which rely on coercion and restriction to achieve their aims must be avoided.

- Addressing AIDS-Related Discrimination and Social Isolation

109. Respect for the principle of non-discrimination requires that people with HIV and AIDS should suffer no discrimination in the enjoyment of their economic, social, cultural, civil and political rights. However, throughout the world people with HIV infection or AIDS and people believed to be engaging in risk behaviours suffer social stigmatisation and discrimination in the enjoyment of their fundamental rights, and are denied the opportunity of living full lives in accordance with their inherent dignity.

110. The obligation of states to ensure that all individuals within its territory are protected from discrimination in the enjoyment of their rights and freedoms includes protection against discrimination on the grounds of HIV infection or AIDS. States are under an obligation both to repeal or amend as appropriate any existing laws or practices which discriminate against people on these grounds, and to avoid the introduction of new laws or policies which are discriminatory. States should ensure that people with HIV and AIDS suffer no discrimination in terms of access to the resources of society such as education, health-care and social welfare. Similarly, states should ensure that people with HIV and AIDS are free to choose their place of residence within their country, to leave and return to their country of origin, and to enjoy, without arbitrary interference, their rights to marry and found a family.

111. The obligation of states to avoid any discrimination in law or in fact in any field regulated by public authorities requires, for example, that people with HIV and AIDS are not subjected to special requirements with respect to travel. There is no public health justification for preventing a person from entering a country solely on the grounds of his or her suspected or actual HIV serostatus. Furthermore, according to the International Health Regulations adopted by states under the auspices of the World Health Organization, currently the only justifiable public health ground for requiring a medical certificate in the context of international travel is infection with yellow fever. Thus, to require certificates identifying HIV status, or to restrict travel on the basis of suspected or actual HIV infection is arbitrary and discriminatory.

112. Further, states should ensure that their asylum policies and entry requirements do not discriminate against people with HIV and AIDS in the enjoyment of their right to seek and enjoy in another country asylum from persecution. In particular, states should ensure that their policies do not prevent family re-union, or offend the principle of customary international law and refugee conventions prohibiting *refoulement* (the return of refugees to their country of origin).

113. Protecting the rights of people with HIV and AIDS, and others facing discrimination, also requires increased public education efforts to counter underlying prejudices which lead to stigmatisation and discrimination, and which are aimed at promoting tolerance, compassion, and solidarity. Thus it is essential that in devising AIDS information campaigns, language which introduces or perpetuates stigma and negative attitudes towards individuals or groups is avoided.

114. The obligation of states to ensure that all individuals within its territory are protected from discrimination in the enjoyment of their rights and freedoms includes an obligation to ensure legal protection against, and redress for, discrimination by third parties in the enjoyment of such rights as the right to work and access to housing, and in the areas of legal and other public services.

115. For their part, employers, public and private landlords and others involved in providing public services, must ensure that their policies and action do not cause discrimination against people with HIV and AIDS.

116. Insurance companies, for example, should ensure that any special terms or conditions imposed on people with HIV and AIDS are strictly justified by their health condition. In particular, insurance companies should ensure that no one is prejudiced in relation to the availability or terms of an insurance policy solely on the grounds that he or she has undergone an HIV test.

117. There is no public health rationale for denying a person with HIV or AIDS the right to work, nor is there justification for requiring an HIV test as a pre-requisite for employment. It would be unethical for a doctor carrying out a pre-employment medical examination to undertake an HIV test requested by the employers without the informed consent of the applicant concerned. An infected person in employment who becomes ill as a result of AIDS is entitled to the same protection and security as employees suffering comparable illness or disablement.

118. The rights of everyone to life and to participate in the cultural life of society entitle people with HIV and AIDS, their families and communities to "live positively" with AIDS. Respect for human rights and dignity and for the principles of humanity oblige everyone to share in the building of a supportive environment for people with HIV and AIDS. Rather than viewing people with HIV and AIDS as "victims" requiring "charity", emphasis should be given to empowering individuals to live in dignity, supported as necessary in a spirit of solidarity.

119. People with HIV or AIDS and other people living with illness or disability, have the right to live their lives as fully as they are able whilst respecting the rights of others. Social isolation and denial of the opportunity to live full lives, not only violate the rights of the individuals affected, but denies their society and humanity as a whole the benefit of their unique contribution and the potential of their creative energy. Respect for the right of people with HIV of AIDS to live their lives as fully as they are able requires that they have the opportunity to participate actively in the design, implementation and evaluation of policies and programmes relating to all aspects of AIDS.

- Addressing the Impact of AIDS on Families and the Community

120. As the International Covenant on Economic, Social and Cultural Rights reaffirms, the family is the fundamental unit of society and is entitled to the widest possible protection and assistance. Respect for the right to life requires that family members caring for a relative with HIV or AIDS are enabled to protect themselves from accidental contact with infected body fluids through, for example, access to protective gloves, soap and disinfectants. Enjoyment of the right to an adequate standard of living may require financial support for families in need as a result of AIDS. States should, to the maximum of their available resources, support families caring for a member or members with AIDS.

121. The obligation of states to provide special measures of protection and assistance to children includes the responsibility to address the needs of children whose parents have HIV or AIDS, or who are orphaned as a result of AIDS. Respect for the rights of the child and the recognition of their need to belong to a community require that, wherever possible, children orphaned as a result of AIDS should be assisted to remain within their communities, and in other ways supported within the traditions of their culture. Measures should therefore be taken to assist communities to provide the nurturing environment required for the full development of the child.

122. Similarly, respect for the rights of the elderly, particularly those left without means of support following the death as a result of AIDS of a family member, requires states to take steps, to the maximum of their resources, to meet the needs of the elderly.

123. In developing policies to address the economic and social dimensions of HIV and AIDS, it is particularly important that states recognise the far reaching economic, social and cultural impact which HIV and AIDS have on entire communities. The importance of assisting communities to cope with the consequences of HIV and AIDS must be recognised, and communities should be assisted in caring for those affected directly and indirectly by HIV and AIDS. The ability of communities to sustain themselves, and to care for their members must be encouraged.

124. States should also recognise the important contribution which communities, self-support groups of people with HIV and AIDS and other non-governmental organisations can and do play in addressing the economic and social impact of HIV and AIDS. In order to maximise their role, policy makers should encourage the further participation of communities, self-support groups and other non-governmental organisations, in the development, implementation and evaluation of policies and programmes in response to HIV and AIDS.

III. CHALLENGES AND OPPORTUNITIES

125. The AIDS pandemic presents a global challenge of unprecedented proportions. It raises crucial human rights, ethical, humanitarian, health, economic and social issues, and threatens to undermine the fabric of tolerance and understanding upon which societies must function. Responding to this challenge requires coordinated and multi-disciplinary responses at every level of national and international society in which all nations and peoples play their part.

126. At the international level, the challenges presented by HIV and AIDS require renewed efforts to resolve economic injustice both within and between nations, to assist less economically developed countries to meet the health and welfare needs of their peoples, and to ensure universal respect for, and observance of, human rights and fundamental freedoms for all.

127. At the national level, addressing these challenges effectively requires a renewed commitment to the development and implementation of effective AIDS policies and programmes based on respect for human rights, and the principles of ethics and humanity. It also requires a re-examination of national laws and practices in order to ensure that these are in keeping with the principle of non-discrimination, and that they assist in the development of a supportive environment. Further, where they have not already done so, states should ratify international human rights instruments and ensure national protection and respect for the human rights and dignity of all people within their jurisdiction.

128. Under present universally accepted standards of human rights, states can and should be held responsible and accountable for their protection of, and respect for, individual human rights and freedoms. This responsibility includes the obligation to respond appropriately, both jointly and individually, to HIV and AIDS. States should be held accountable for their performance of these obligations in the appropriate international and national organs, such as the United Nations Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities, and the United Nations human rights treaty monitoring bodies, and before regional and national human rights commissions and courts.

129. Strategies required to be adopted by organisations include a re-examination by professional bodies of their ethical principles and the means by which professionals might be held accountable for adherence to these principles. Institutions, public and private authorities, corporations and other organisations must ensure that their policies and practices neither perpetrate social stigma nor permit discrimination against individuals in their enjoyment of the rights to education, work, housing and access to other resources of society or public services.

130. The AIDS pandemic challenges individuals, families and communities to respond in a spirit of solidarity to those in need as a result of HIV and AIDS. Experience has also shown that in order for the human impact of HIV and AIDS to be effectively addressed, there must be solidarity between all people, infected and uninfected alike.

131. In order to ensure strict adherence to human rights norms, and the principles of ethics and humanity by all individuals and organs of society, consideration should be given to the establishment of appropriate additional mechanisms at various levels by which all international agencies, states, public and private authorities, institutions, corporations, organisations, professional bodies and individuals might be held accountable for their responses to the challenges presented by HIV and AIDS.

132. The AIDS pandemic also presents unique opportunities for effecting change since it forces societies to address issues that had hitherto been largely ignored, such as homophobia, the relationship between poverty and ill-health, and between economic need and prostitution, and the causes and consequences of self-injecting drug use. AIDS also provides the impetus to examine attitudes to sexuality in the context of health. Responding effectively to HIV and AIDS will require developing creative ways of preventing prejudice and discrimination,

and addressing economic and other injustice. At a personal level, the AIDS pandemic highlights the need for men and women to establish relationships based on mutual trust and respect.

133. Similarly, societies and individuals are challenged to reconsider their attitudes to life and death, and to ill-health and disability. For example, the pandemic has encouraged a reassessment of the provision of care for the terminally ill, and has given additional impetus to the hospice movement and other projects designed to ensure dignity in illness and death.

134. The benefits of "positive living" are of significance for all people, the healthy as well as those with sickness or disability. The strength of the human spirit of those who have come to terms with the implications of their infection or that of a family member, and have adopted a positive attitude to life with HIV and AIDS can provide inspiration to all people to live their lives to their full potential.

135. The important role played in HIV prevention efforts and AIDS care programmes by people with HIV and AIDS has done much to address the ignorance and prejudice which breeds discrimination and social stigma. Their role provides encouragement for increasing recognition of the actual and potential contribution to society of people with ill-health or disability. Similarly, successful self-help and community based projects giving support to people with HIV and AIDS provide models of empowerment, which are of significance to the respect for human rights generally.

136. The AIDS pandemic has shown that countries and national groups can work together to share resources and co-operate in unprecedented ways. Such multi-disciplinary and multi-faith cooperation has significance both for future international and intra-national cooperation in the field of public health and welfare, and for global cooperation to resolve humanitarian problems.

137. In determining their responses to HIV and AIDS societies and individuals should both learn from experience gained to date in addressing public health challenges, and look to the future. The way humanity responds to HIV and AIDS may shape future approaches to health and well being, and the control of epidemics. Thus, current policies must be based on respect for human rights and dignity, justice and tolerance and those other values which we would wish to pass on to future generations.

SIGNATORIES

In keeping with our commitment to ensure effective responses to HIV and AIDS, we, the undersigned call on all individuals and organs of society to respect human rights, and the principles of ethics and humanity, and to respond to the challenges and opportunites presented by HIV and AIDS in a spirit of compassion and solidarity.